HON'BLE SRI JUSTICE BILAL NAZKI
AND
HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION No.26250 of 2005

Date: 09-10-2007.

Between :

M/s.Navata Road Transport, Vijayawada,
Rep. by its Partner.

.....Petitioner

And

The Deputy Transport Commissioner & Registering Authority, Krishna District & others.

.....Respondents.

HON'BLE SRI JUSTICE BILAL NAZKI
AND
HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION No.26250 of 2005

ORDER : (Per Hon'ble Sri Justice Bilal Nazki)

Heard learned Counsel for the parties.

The petitioner is aggrieved of the inaction of respondent No.1 in not registering some of the vehicles whose Engine Numbers are given in the writ petition. Notices were sent and counter has been filed by the Commercial Tax Officer and also by the Transport Commissioner.

The controversy is very short. Though the applications for registration of the vehicles had been made, the respondents have not passed any orders either registering the vehicles or refusing registration. But in the counter affidavit it is said that the registrations were refused mainly on the ground that Government had issued G.O.Ms.No.428 Revenue (CT.II) Department on 06.06.1996, directing that the tax on body-building would be at 4% and in pursuance of this G.O., the 2nd

respondent issued circular instructions on 27.06.1996 to all the registering authorities to insist on production of clearance certificates from the Commercial Tax Department before the registration of any category of motor vehicle for which the body was built-over and in pursuance of the said circular, respondent No.1 insists for the production of tax clearance certificates. Since the petitioner failed to produce sales tax clearance certificates, the registration was refused.

The question before this Court is whether the authorities under the Motor Vehicles Act can refuse registration of a vehicle on the ground of non-production of a certificate of clearance from the Commercial Tax Department.

Section 45 of the Motor Vehicles Act, 1988 (for short 'the Act') deals with registration, and in our view, if the conditions laid down under Section 45 of the Act are fulfilled, the registering authority is bound to register the vehicle and any extraneous conditions imposed, would not be lawful. The learned Government Pleader also submits that Rules 79 to 129 of the A.P.Motor Vehicles Rules, 1989 (for short 'the Rules') lays down the methodology of registration of the vehicles. Even in these Rules, there is nothing to show that registration can be refused on the ground that a sales tax clearance certificate has not been obtained. The learned

Government Pleader also referred to the powers of the Transport Commissioner as contained in Rule 483 of the Rules. It is accepted that the Transport Commissioner has power to give instructions, but these instructions should be only to carry the purposes of the Act and not to defeat them. Even under the A.P.General Sales Tax Act, 1957, there is no power with the Commissioner of Sales Tax to direct the authorities created under the Motor Vehicles Act, to refuse registration on any ground whatsoever.

We are not going into the question whether the body-building activity of the petitioner is taxable or not under the General Sales Tax Act, but if the Department of Commercial Tax feels that this is a taxing activity, they are not powerless to proceed against the petitioner even after registration of the vehicle. Therefore, we direct that the registering authority shall not insist on production of clearance from the Sales Tax Department before registration of the vehicle. In this background, the memo issued by the Transport Commissioner and the Circular issued by the Sales Tax Commissioner, are quashed.

Writ petition is allowed accordingly.

BILAL NAZKI, J

9th October 2007.

RAMESH RANGANATHAN, J

N.B:

Furnish C.C. in one week.

(b/o)

ajr